

Notice of Allowability

Application No.

09/437,171

Examiner

Judy M. Reddick

Applicant(s)

KRAJNIK ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE(06/22/04)/Amnd't(06/28/04) + RCE(06/28/04)/Amnd't(07/08/04).
2. ☒ The allowed claim(s) is/are 1,3-17 and 27-31.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/22/04 has been entered.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Arthi K. Tirey on 09/30/04.

The application has been amended as follows:

IN THE CLAIMS

Claim 2, duplicate to claim 27, has been cancelled in its entirety.

In claim 7 @ line 1, "having" has been deleted and "containing" has been inserted in its stead so as to engender claim language clarity and consistency.

In claim 7 @ line 2, "comprises" has been deleted and "is" has been inserted in its stead so as to engender claim language consistency.

In claim 9 @ line 2, "having" has been deleted and "containing" has been inserted in its stead to as to engender claim language clarity and consistency.

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In claim 13 @ line 1, "having" has been deleted and "containing" has been inserted in its stead so as to engender claim language clarity and consistency.

In claim 13 @ line 2, "comprises" has been deleted and "is" has been inserted in its stead so as to engender claim language consistency.

In claim 28 @ lines 3 and 4, "at least one" has been deleted so to engender claim language clarity and consistency.

In claim 29 @ lines 1 and 2, "at least one polymer comprises a dispersant polymer and a thickener polymer" has been deleted and "polymer is a dispersant polymer, a thickener polymer or a combination thereof" has been inserted in its stead so as to engender claim language clarity and consistency.

In claim 31, the structural formula has been deleted and replaced with the following formula:



3. The following is an examiner's statement of reasons for allowance: After further consideration coupled with the amendments to the claims, the instantly claimed invention is deemed allowable over the prior art of record, Cruden et al (U.S. 4,176,103) in combination with Huth et al (U.S. 5,102,936), meritorious of the closest prior art, as per said art neither anticipating nor rendering obvious the precisely defined aqueous coating composition comprising a binder polymer derived from one or more ethylenically unsaturated monomers containing latent crosslinking functionality wherein at least one of said monoethylenically unsaturated monomers is a carbonyl-containing monomer selected from the group consisting of acrolein, methacrolein, diacetone acrylamide, diacetone methacrylamide and vinylaceto acetate and a polymer derived from monomers comprising greater than 5 weight percent to 50 weight

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percent of a monomer containing latent crosslinking functionality and a macromonomer comprising a hydrophobic portion and an alkoxyated portion, as claimed. One having ordinary skill in the art would not have been endowed with any motivation to cull, from the combined disclosures of Cruden et al and Huth et al, the precisely defined aqueous coating composition, as claimed, with any reasonable expectation of success. More specifically, Cruden et al disclose and exemplify aqueous dispersions of carbonyl-group containing polymers (polymer latexes), useful in coating and binder compositions, wherein said polymer is derived from carbonyl-containing monomers such as vinyl acetoacetate, diacetone acrylamide, etc. and other monoethylenically unsaturated monomers which include fatty acid vinyl esters, esters of (meth)acrylic acid such as butyl acrylate, unsaturated carboxylic acids which include (meth)acrylic acid, etc. Cruden et al @ col. 6, lines 1-7, further invite the use of conventional materials such as thickeners, dispersing agents and other commonly known additives in formulating the antecedently recited aqueous polymer dispersions. More specifically, Cruden et al exemplify diacetone acrylamide-governed polymer latexes derived from 44 wt.% of methyl methacrylate, 50 wt.% of butyl acrylate, 2 wt.% of methacrylic acid and 4 wt.% of diacetone acrylamide. Huth et al teach aqueous surface-active, urethane derivatives-govern copolymer-containing aqueous dispersions, useful in enhancing the rheological and thickening properties in aqueous preparations, wherein said copolymers are derived from ethylenically unsaturated monomers which comprise a) 25 to 85 wt.% of ethylenically unsaturated hydrophobic monomers, b) 1 to 50 wt.% of ethylenically unsaturated monomers capable of salt formation, c) 0.1 to 30 wt.% of macromonomer units of surface-active urethane derivatives, d) 0 to 10 wt.% of other ethylenically unsaturated monomers containing functional radicals which include n-methylol(meth)acrylamide, e) 0-5 wt.% of carbonyl-group containing compounds, in particular 0.05 to 3 wt. % and preferably 0.1 to 2 wt. %. One having ordinary skill in the art would not have been endowed with any motivation to adjust the content of carbonyl-group containing compound + add the adjusted carbonyl-group containing compound-containing aqueous dispersion to the system of Cruden et al with any reasonable expectation of success. Moreover, too much picking and choosing would have been involved and highly unwarranted.

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4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (571)272-1110. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Judy M. Reddick
Primary Examiner
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JMR 
09/30/04